EXHIBIT "A"

Dockets.Justia.com

Doubleday

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE "A MILLION LITTLE PIECES" LITIGATION **MDL No. 1771**

PLAINTIFF RUBENSTEIN'S RESPONSE TO DEFENDANTS' MOTION TO TRANSFER AND CONSOLIDATE ACTIONS TO A SINGLE JUDICIAL DISTRICT FOR PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407

Kalcheim | S A L A H
Mitch Kalcheim (Cal. State Bar No. 175846)
Amber S. Healy (Cal. State Bar No. 232730)
2049 Century Park East
Suite 2150
Los Angeles, California 90067
T: 310.461.1200
F: 310.461.1201

Plaintiff Sara Rubenstein hereby submits her response to the Motion to Transfer and Consolidate Actions pursuant to 28 U.S.C. § 1407 filed by Defendants Random House, Inc. ("Random House") and Doubleday & Company, Inc. ("Doubleday") (collectively "Publishing Defendants"). Rubenstein is the Plaintiff in *Rubenstein v. Random House, Inc., et al.*, Case No. 06-CV-1029 (C.D. Cal.).

For the same essential reasons set forth in the Publishing Defendants' moving papers, Plaintiff agrees that the matter should be consolidated and transferred to United States District Court for the Southern District of New York. Alternatively, if the Panel does not transfer the cases to the Southern District of New York, Plaintiff Rubenstein requests that the cases be transferred to the Central District of California.

The Central District of California would be appropriate because there are currently at least two cases pending in that District[1] and the *Rubenstein* case was one of the first filed cases nationwide.[2] Both of the Central District of California cases have been transferred to the same judge. Thus, the Court has already proceeded to adjudicate this matter in an efficient manner. *See, e.g., In re Fleming Cos. Secs. & Deriv. Litig.*, 269 F.

[1]The two California cases are *Rubenstein v. Random House, Inc., et al.*, Case Number 06-CV-1029, and *Hauenstein, et al. v. Frey, et al.*, Case Number 06-CV-1030, both of which are pending before the Honorable Robert S.W. Lew.

[2]The *Rubenstein* case was filed on January 12, 2006, the same day *More v. James Frey, et al.*, Case Number 06-CV-0934 was filed in Illinois.

Supp. 2d 1374, 1375 (J.P.M.L. 2003) (transferring actions to judge who was familiar with the litigation). In addition, the two California cases encompass various legal theories, many of which are similar to those legal theories raised in the other pending actions. Further, the Central District of California is a location where numerous witnesses may reside. *See In re Public Air Travel Tariff Litigation*, 360 F. Supp. 1397 (J.P.M.L. 1973) (Consolidation in Central District of California appropriate based on convenience of parties and witnesses.).

To the extent that witnesses and parties are located elsewhere, the Central District of California is still an appropriate transferee jurisdiction because, like Manhattan, Los Angeles is a major metropolitan area that is "well served by major airlines, provides ample hotel and office accommodations, and offers a well developed support system of legal services." *In re WorldCom, Inc., Sec. & ERISA Litig.*, 226 F. Supp. 2d 1352, 1355 (J.P.M.L. 2002). Accordingly, it would be appropriate to choose the Central District of California as the transferee forum, should the Panel not transfer the actions to the Southern District of New York.

For all the foregoing reasons, as well as those reasons set forth in the Publishing Defendants' Motion to Consolidate and Transfer, the pending actions should be transferred to the Southern District of New York for coordinated or consolidated pretrial proceedings. In the event the Panel does not transfer to the Southern District of New York, it should transfer the cases to the Central District of California for all the reasons detailed above.

Dated: March 17, 2006

Respectfully Submitted,

Amber S. Healy
Mitch Kalcheim
Attorneys for Plaintiff
SARA RUBENSTEIN

Kalcheim | S A L A H
Mitch Kalcheim (Cal. State Bar No. 175846)
Amber S. Healy (Cal. State Bar No. 232730)
2049 Century Park East
Suite 2150
Los Angeles, California 90067
T: 310.461.1200
F: 310.461.1201